



The Comptroller General  
of the United States

Washington, D.C. 20548

*Billings*

## Decision

Matter of: Yellow Freight System, Inc.  
File: B-221663  
Date: October 10, 1986

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### DIGEST

Where there is persuasive evidence showing that the billing/delivering carrier advised the government to call another carrier to pick up a shipment as its agent, and the Government Bill of Lading, which was issued to the billing/delivering carrier, was receipted by the other carrier as its agent, the General Services Administration's (GSA) audit determination that charges based on the billing/delivering carrier's single-line rates were applicable (rather than the charges based on higher joint-line rates the carrier collected) was correct. Therefore, GSA's recovery of the difference as overcharges is sustained.

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### DECISION

This decision results from our review of deduction action taken by the General Services Administration (GSA) to recover overcharges collected by Yellow Freight System, Inc. (Yellow). We sustain GSA's action.

### BACKGROUND

The record indicates that Merchants Fast Motor Lines, Inc. (Merchants), picked up a shipment from the U.S. Army Reserve Center, 327th Chemical Company, at Bay City, Texas, on December 17, 1982, and transferred it to Yellow at Houston for delivery to Bloomington, Illinois. Yellow collected freight charges for the through transportation based on joint-line rates. The GSA determined that lower single-line rates, which were offered in Yellow's Tender No. ICC 2094, were applicable, on the theory that Merchants was merely Yellow's pick-up agent, rather than an interline carrier. GSA then recovered the difference between the charges collected and charges derived from Tender No. 2094 as overcharges.

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Yellow answers with a general denial of any policy to use agents at Bay City and speculates that the shipper must have called Merchants for service, and apparently looked to that carrier for performance.

#### FACTS

The Government Bill of Lading (GBL), No. S-5789267, shows that the shipment was tendered to "YELLOW FREIGHT SYSTEM, INC (YFSY) (Merchants Fast Motor Lines Inc.);" that the GBL was issued to Yellow and the shipment was received at origin by a pick-up agent who signed his name, and entered "Yellow" in the GBL's "PER" block. Yellow does not dispute that Tender No. 2094, offering single-line rates to the government from origin to destination, was in effect on December 17, 1982, nor does it contend that it lacked operating authority to serve Bay City, directly.

The record contains a letter to GSA dated April 4, 1986, from Mr. Robert F. Snyder of the Transportation Division, Headquarters Fort Sam Houston, Texas. That agency issued the GBL. Mr. Snyder states that Yellow was contacted in December 1982. At that time the carrier verified that it would serve Bay City under Tender No. 2094 rates, and that the GBL was furnished to the shipper (Commander, USARC, 327th Chemical Company, Bay City, Texas) with instructions to contact Yellow in Bay City for pickup. Mr. Snyder also states that when Yellow's Houston terminal was contacted, the shipper was advised that Merchants was Yellow's pick-up agent for its Houston terminal.<sup>1/</sup> Finally, Mr. Snyder confirms that Merchants did make the pickup and, as already noted, Merchants' agent receipted the GBL as Yellow's agent.

#### DISCUSSION

The evidence requires that the issue of whether Merchants picked up the shipment as an interline carrier or as Yellow's agent be resolved in GSA's favor. The GBL was issued to Yellow, the Fort Sam Houston letter provides considerable specificity in support of the position that Merchants was Yellow's agent, and the manner in which the driver picking

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<sup>1/</sup> We note that statements made in a letter dated April 8, 1986, to GSA from the Bay City unit may conflict with Mr. Snyder's letter, in that the Bay City letter indicates that it is their understanding that Yellow is not authorized to serve Bay City. The Bay City letter, however, speaks only in generalities whereas Mr. Snyder's letter addresses the specific shipment in controversy.

up the shipment receipted for it also indicates that it was being picked up on behalf of Yellow.

The situation in this case is similar to that in ABF Freight System, Inc. (East Texas Motor Freight), B-218696/B-218697, October 30, 1985, which sustained GSA's deduction action on evidence that the shipper tendered the shipment to the origin carrier based on a prior communication that the billing carrier would provide single-line service through pick-up agents. Here, GSA's evidence indicates that if the shipper contacted Merchants, it was based on Yellow's representation that Merchants would make the pickup merely as Yellow's agent.

While Yellow's general denial of agency and its speculation that the shipper looked to Merchants as an interline carrier dispute the agency's facts, there is a long established rule that the accounting officers of the government rely on the statements furnished by the administrative officers to resolve disputed questions of material fact. See Dan Barclay, Inc., B-217354, June 11, 1985, and 45 Comp. Gen. 99 (1965).

As a result of Merchants' apparent status as Yellow's agent, and other facts of record, GSA properly inferred that the contract of carriage was with Yellow for through service at the lower Tender No. 2094 rates. A mere denial of agency, under these circumstances, generally would not rebut the validity of GSA's audit action. See ABF Freight System, Inc., B-221608, June 2, 1986.

Accordingly, we sustain GSA's determination that Yellow's Tender No. 2094 rates are applicable.

*for Harry R. Van Cleave*  
Comptroller General  
of the United States